

**GARRARD, Senior Judge**

A jury convicted Bridgewater of theft from a CVS drugstore. His appeal challenges the admission into evidence of a DVD onto which had been copied portions of a surveillance videotape taken in the store at the time of the alleged offense.

The evidence at trial disclosed that on January 16, 2006, Brian Gaffney was working as store manager at the CVS drugstore on West 38<sup>th</sup> street in Indianapolis. Looking through his office windows into the retail portion of the store, he observed a man whom he recognized, Michael May, enter the store along with Bridgewater. Gaffney recognized May from the previous day's store surveillance videotapes. When he reviewed the tapes after May left the store the previous day, he saw May stealing various products from the store. When May returned to the store on January 16, Gaffney contacted the police. Gaffney observed May and Bridgewater walking through the store and placing items into their pockets. He witnessed them taking skincare products and personally saw Bridgewater place four or five items in his pockets. Bridgewater and May continued walking around the store and then left without paying for anything. An officer stopped the thieves' car shortly after it left the CVS store, discovered the stolen goods in the vehicle and arrested Bridgewater and May.

The store manager retrieved the surveillance video of the theft and copied the frames in which the thieves appeared to a DVD. The DVD was introduced into evidence, over Bridgewater's objection at trial.

Bridgewater contends that the DVD was not properly admissible because it had been selectively edited and was presented in fast time rather than real time. He, also,

argues that an insufficient foundation was laid for its admission under a silent witness theory.

If the DVD was admissible as demonstrative evidence we need not consider its admissibility under the more stringent requirements applicable to “silent witness” evidence where there is present no witness subject to cross examination. *See, Bergner v. State*, 397 N.E.2d 1012, 1015 (Ind. Ct. App. 1979).

Demonstrative evidence is evidence offered for purposes of illumination and clarification. To be admissible, the evidence need only be sufficiently explanatory or illustrative of relevant testimony to be of potential help to the trier of fact. *Bennett v. State*, 787 N.E.2d 938, 944 (Ind. Ct. App. 2003).

As a general rule such evidence is admissible if it illustrates a matter about which a witness has been permitted to testify. In addition to relevance the sponsoring witness must establish that the video is a true and accurate representation of the things that it is intended to portray. *Timberlake v. State*, 679 N.E.2d 1337, 1341 (Ind. Ct. App. 1997).

In the present case manager Gaffney observed Bridgewater and May enter the store and watched as they took items from the shelves and placed the items in their pockets, as discussed above. He observed Bridgewater putting skincare products in his pockets.

Concerning the DVD Gaffney testified that there were sixteen cameras in the store, but he only rerecorded the three scenes which showed May and Bridgewater. “[T]here was a shot of them entering the building, a shot of them in the oral care aisle filling their pockets, and then a shot of them in the middle of the store going from one

aisle to the other carrying product in and putting it in their coats between aisles.” He testified that these were the only shots from the sixteen cameras that May and Bridgewater appeared in. He testified that the DVD was an accurate depiction of the surveillance video from the store and an accurate reflection of what he personally viewed happening in the store that day.<sup>1</sup>

While it appears the video was played in fast time, Bridgewater makes no assertion as to how he was prejudiced by this, and we fail to perceive under the circumstances how it constituted a material change.

He also complains that the video was edited. Ind. Evidence Rule 106 is designed to avoid misleading impressions caused by taking a statement out of its proper context or otherwise conveying a distorted picture by the introduction of only selected parts. However, a court need not admit the remainder of a statement, or portions thereof, that are neither explanatory of nor relevant to the portions already introduced. *Lieberenz v. State*, 717 N.E.2d 1242, 1248 (Ind. Ct. App. 1999). Thus, in *DesJardins v. State*, 759 N.E.2d 1036, 1037 (Ind. 2001) the state played four minutes of a four hour videotape. Our supreme court agreed there was no error in the failure to play the remainder of the tape because DesJardins had failed to demonstrate the relevance of the absent portions.

In the present case Gaffney testified that he copied the only scenes from the video cameras in which May and Bridgewater appeared. Bridgewater makes no contention that any of the remainder of the store videos from that day were in any manner relevant to his

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<sup>1</sup> Evid. R. 1003 would permit the use of the DVD instead of the original videotapes.

case. He, therefore, would not have been entitled to have the remainder played for the jury. Because this is so, no error was committed in permitting the jury to view the segments recorded on the DVD.

Accordingly, we find that the video was properly admitted as demonstrative evidence. It follows that the judgment should be affirmed.

Affirmed.

SHARPNACK, J., and VAIDIK, J., concur.